

## Remarks

The above-referenced patent application has been reviewed in light of the Office Action, dated **November 16, 2004** (hereafter, the Action), in which: claims 1-17 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Doiron (US Patent 5,968,197 hereinafter “Doiron”). In response, Applicants respectfully disagree with the 35 U.S.C. § 102(b) rejection of claims 1 – 17.

## Current Status of Claims:

With this amendment, claims 1 – 17 remain pending. Applicants offer to amend claims 1, 4, 7, 10, 13 and 14 as presented above, to particularly claim that which Applicants consider to be the invention. In addition, Applicants have introduced new claims 18 - 24 as presented above. Support for the new claims can be found in the original specification, claims and/or figures. In this regard, no new matter has been introduced.

## Rejections under 35 U.S.C. 102(b):

On page 3 of the Action, claims 1-17 are rejected under 35 U.S.C. § 102(b) as being anticipated by Doiron. The rejection of such claims on this basis is respectfully traversed.

Claim 1, as currently amended states:

An apparatus, comprising:  
a data path input unit to receive a packet from a transmitting device that does not expect a completion acknowledgement for a request transaction; and  
a data path output unit to transmit a message to the transmitting device if the request transaction is unsuccessful.

Emphasis added.

As is well-established, to support a *prima facie* case of anticipation, the Action must show that each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. See MPEP § 2131. In the present case, Applicants respectfully submit that the teachings of the reference cited by in the Action fail to support a *prima facie* case of anticipation.

The Action provides on page 2 that Dorian teaches an ARQ protocol between a transmission unit (sender) and a receiving unit (receiver). In particular the Action alleges Dorian teaches the receiver transmitting a negative acknowledgment (NAK) when data is received incorrectly as anticipating the claimed invention. Applicants respectfully disagree.

Applicants respectfully submit that Doiron fails to disclose a data path input unit to receive a packet from a transmitting device *that does not expect a completion acknowledgement for a request transaction* as cited in claim 1 above. In particular, Doiron discloses an ARQ protocol employed between sender and receiver so that when a data unit is received, correctly *or incorrectly*, an ACK or a NAK is transmitted by the receiver. See Col. 5, ln. 10–15. Emphasis added. Doiron goes on to disclose a processing time for a receiver to transmit an ACK/NAK in order to “ensure that the receiver provides *some kind of positive acknowledgement/negative acknowledgement* to the sender within a predetermined amount of time” or within an “ACK/NAK transmission timing window.” See Col. 8, ln. 28-38. Emphasis added.

Since Dorian discloses that the *sender expects some kind of acknowledgement* from the receiver within an “ACK/NAK transmission timing window” when using an ARQ protocol, Applicants respectfully submit that Doiron actually teaches away from a transmitting device *that does not expect a completion acknowledgement for a request transaction* as cited in claim 1 above. Accordingly, Dorian does not describe this element in claim 1.

Applicants respectfully assert that, based on the rationale articulated above, the Action has not established a *prima facie* case of anticipation to support the rejection of claim 1 under 35 U.S.C. § 102(b). Therefore, for at least the foregoing reasons, it is respectfully requested that the Examiner withdraw rejection of claim 1.

Independent claims 7 and 13 also include similar elements to claim 1. In particular, claim 7 contains the elements *a transmitting device...the transmitting device does not expect a completion acknowledgement* and claim 13 contains the elements of a *request packet does not indicate that a completion acknowledgement is expected*. Accordingly, claims 7 and 13 are patentable over the cited reference for at least the same reasons as to those presented for claim 1. Therefore, Applicants respectfully request that the Examiner withdraw the rejection of claims 7 and 13.

Applicants note that claims 2-6, 8-12 and 14-17 depend from patentable base claims 1, 7 and 13, respectively. As a result, in addition to any independent bases for patentability, Applicants respectfully submit that claims 2-6, 8-12 and 14-17 are patentable over the cited reference by virtue of at least this dependence. Thus, Applicants respectfully request that the 35 U.S.C. § 102(b) rejection of these claims be withdrawn.

## Conclusion

For at least the foregoing reasons, Applicants respectfully submit that claims 1-24, as selectively amended, are in condition for allowance and such action is earnestly solicited. *The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.*

Please charge any shortages and credit any overcharges to our Deposit Account number 50-0221.

Respectfully submitted,  
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